**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO. 124 OF 2006**

Shri Nanasaheb Bajirao Tengle. ...Applicant
V/s.
Shri Khanderao Baburao Dhayagude & Anr. ...Respondents

Shri U.P. Warunjikar for Applicant.
Ms.M.H. Mahatre, APP for the State.

**CORAM : V.M. KANADE, J.**

**DATED : APRIL 13, 2006**

**P.C. :-**

. This is an application for review of the order passed by this Court on 3rd February, 2006.

2. Learned Counsel for the applicant has submitted that on the earlier date, the matter was argued at length and certain points have been argued by them and he had taken time to get the Judgment of the Bombay High Court on the issue which is considered by the Judicial Magistrate which is discussed in para 5 of the said order. He invited my attention to the finding which is recorded by the Judicial Magistrate, Baramati in para 5. He also invited my attention to the other submissions

which have been considered by this Court by order dated 3rd February, 2006.

3. I have heard learned Counsel for the applicant at length. In my view, the submission of the learned Counsel appearing on behalf of the applicant, so far as the finding in para 5 of the impugned order is concerned, is squarely covered by the Judgment of the Supreme Court in the case of **M/s.Modi Cements Ltd. V/s. Kuchil Kumar Nandi, reported in 1998 SCC page 1057.** Thus, in my view, the submissions of the learned Counsel for the applicant on both these issues cannot be accepted since they are squarely covered by the Judgment of the Apex Court.

4. Learned Counsel for the applicant submits that in the order dated 3rd February, 2006, it is stated that none appears for the petitioner. He submits that the learned Counsel appearing in the said case had argued the matter at length on the earlier date.

5. It is true that the matter was heard at length by this Court on the earlier date and the matter was fixed for orders. The noting therefore that "None appears for the petitioner" appears to be incorrect and accordingly, is modified.

. The application is accordingly disposed of.

**(V.M. Kanade, J.)**